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Die with Royalty

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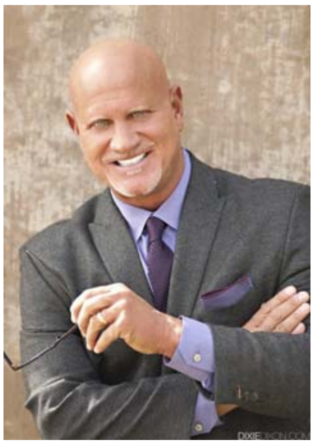
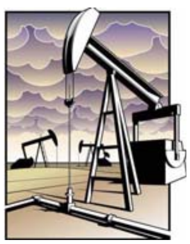


Senior Counsel practicing in the areas of Internet Law and Licensing; IP, Media and Entertainment Law, including trademark registration, publishing, television, music, Internet, film and theatre; Licensing, including merchandising, copyright, trademark, sports and related exploitation; Media Law, including First Amendment, free speech, libel, slander and new media applications; Computer Law and software licensing; Corporate Law as applies to media and sports companies, including formation, alteration, venture strategy and general counsel services; Oil and Gas, including title examination, curative and due diligence, land services and negotiations, credit facility agreements, royalty issues, leases, farmouts and rights-holder representation; Exploration and development of mineral-producing properties and joint operating agreements.

Failure to have and follow a Security Policy is a violation of federal law.



From the title of this little article you might think I want you to attend your nearest Palace Coup d'etat. That is not the case. My purpose is to get you thinking about royalty income in your estate plan. As a lawyer who has spent more than twenty-five years working in royalty compensation deals, I am often called upon by my estate planning colleagues to consult.

Royalties (root: sovereign, real – as in real property) are the income derived from the development of property interests. There are two such types: Intellectual Property (pays royalties on Copyrights, Trademarks and Patents) and Real Property (pays royalties on oil, gas, coal, timber, gypsum, wind, uranium). If you own any of these interests, there are some special suggestions you might discuss with your estate planning

1. Proper recordation of the royalty-associated property

With Trademarks, Copyrights and Patents this means correct Federal Registration and maintenance. Royalty producing interests do not always have to be registered for you to claim ownership, but registration or recording are often necessary to enforce your rights against others (as in the filing of an oil and gas deed or Trademark registration).

2. Creation of a special entity such as a corporation or Limited Liability Company to accept ownership of the interests.

There can be substantial estate planning, tax and liability-shielding benefits by aggregating royalty-producing interests or the corresponding income in “company” form. This is always a good item to discuss with your estate planning lawyer and tax advisors.

3. Appointment of a special executor or trustee who is familiar with royalty exploitation and collection.

If you have a lot of (or complex) royalty properties, then perhaps someone who is skilled in that area can be of great use to your heirs or trust beneficiaries. Some royalties can pay for several generations (oil, Patents, Trademarks, Copyrights) and ensuring know-how to help family members may be advisable.

If you own royalties of any kind, no one can guarantee you will live like a king. But the right planning might help you die like one.

Evan M. Fogelman’s media and energy practices are devoted mostly to royalty compensation contracts. You may contact him at efogelman@uplawtx.com.